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ARIZONA CORPORATION COMMISSION

Brian C. McNeil
Executive Secretary

Direct Line: (602) 542-4143
Fax: (602) 542-0765
E-mail kmayes@cc.state.az.us

July 7, 2004

Chairman Marc Spitzer
Commissioner Bill Mundell
Commissioner Jeff Hatch-Miller
Commissioner Mike Gleason

Re: UniSource/Pinnacle West Contract Renegotiations and Docket Nos. E-01032C-00-0751, G-01032A02-0598, E-01933A-02-0914, E-01032C-02-0914, G-01032A-02-0914; Draft Policy Statement on the Encouragement of Retention of Large Electric Customers

Dear Colleagues:

I am writing today to agree with Commissioner Mundell that we should schedule a public meeting on efforts between UniSource and Pinnacle West to renegotiate their current purchase power contract. On April 16th of this year, I wrote to UniSource CEO Jim Pignatelli asking him a series of questions about the company's efforts in this regard, including why it had not yet tapped the FERC arbitration process and whether the company believed that by restructuring its RFP process for bids it could achieve a better price than the current contract. I received a detailed response from Mr. Pignatelli, but I believe that a public airing of these issues, as well as an updated report on the company's efforts is important.

Attached is a draft policy statement that I am proposing to help address situations like the one currently faced by Guardian Industries in Mohave County. I welcome your input and look forward to discussing the issue with you further. It is my belief that the Commission must do everything in its power to keep large utility customers from leaving our state due to high utility rates. In the case of Guardian, a company that provides good jobs to more than 120 people in Mohave County, we must do what we can to encourage the company to preserve and expand its facilities in Arizona.

Sincerely,

Kristin K. Mayes
Commissioner

Cc: Parties of record

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POLICY STATEMENT
TO
ENCOURAGE RETENTION OF LARGE CUSTOMERS

Utilities regulated by the Arizona Corporation Commission ("Commission") are hereby encouraged to try to retain their large customers, when those customers are likely to leave the utility by locating somewhere other than Arizona or going out of business and one of the reasons is due to utility prices. The two primary reasons for this policy are 1) to keep prices lower to the remaining customers by not having a utility lose a major source of revenue that would have to be made up by those remaining customers, and 2) to maintain and enhance the economic well-being of the State.

In the past the Commission has approved special contract rates between utilities and large customers when the customer had proposed to the utility that it would be acquiring a particular utility service from other than the local utility due to that customer's ability to obtain such service at rates that were more favorable to the customer than the utility's tariffed rates. This policy encourages utilities to deal with large customers that would be relocating outside Arizona or going out of business due to utility prices in the same manner as those utilities would deal with a customer that proposes to acquire its utility service from an alternative source (other provider or self provision).

With this simple policy statement the Commission is hereby notifying utilities with large, significant revenue producing customers that the Commission will review proposals by utilities to enter into special contracts with those customers on the basis of those customers relocating outside of Arizona or going out of business due to utility prices. If such a proposal is submitted to the Commission for review and approval, the Commission requirements for such an application shall include the following:

1. Proof that the customer will truly be relocating outside of Arizona or going out of business.
2. The reasons why this customer's relocation or going out of business will be detrimental to Arizona.
3. Proof that the proposed contract rates to be charged to the customer will still result in a profit to the utility, i.e., are not below cost, and the other customers of the utility will not be subsidizing this customer.
4. The reasons why the retention of this customer by the utility is beneficial to all of the following –
 - a. the utility,
 - b. the State, and
 - c. the other customers of the utility.
5. Any other information the utility believes is relevant.
6. Any other information the Commission or its Staff believes is necessary to complete the review.